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EXAMINER

FISH, JAMIESON W

ART UNIT PAPER NUMBER

2617

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/882,158

Applicant(s)

GUTTA ET AL.

Examiner

Jamieson W. Fish

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 09-05-2005 have been fully considered but they are not persuasive. The applicant argues: (1) With respect to claims 1, 4-5, 9, 11-21 and 23, that "there is not disclosure, or suggestion, within Liebenow for automatic detection of which users are currently within a predetermined viewing area." (See Remarks Pg 9 Paragraph 4 and Pg 11 Paragraph 1), (2) With respect to claim 2, "the Office Action has not supplied any suggestion or motivation to combine Harada et al. with Liebenow to arrive at the claimed subject matter." (See Remarks Pg 10 Paragraph 2), (3) With respect to claims 2 and 3, "it is not obvious or well known to detect which users are currently within a predetermined viewing area using hand print recognition systems." (See Remarks Pg 10 Paragraphs 3 and 4).

In response to argument (1), the applicant argues that the "automatic detection" limitation in the claims is met by a fingerprint recognition system, but not by a user providing his identity by depressing a switch. A finger print recognition system works by having a user press his finger on a sensor and having a processor associate this fingerprint with a particular user. The switch system works by having a user flip a particular switch and having a processor associate the position of the switch with a particular user. These systems operate equivalently in how they detect a user, i.e. they both rely on user input and a processor associating input with a user identity. Thus, if one system automatically detects a user so does the other.

In response to argument (2), the examiner clearly states a motivation for the combination in Paragraph 15 of the Office Action, "to reduce the possibility that unauthorized users accessed information (See Harada Col. 5 lines 33-38)."

In response to argument (3), this argument is moot, since claims have been amended with "at least one of." The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements. Thus, claims do not require a handprint recognition system.

***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Liebenow (US 6,530,083).
2. Regarding claim 1, Liebenow teaches an apparatus useful with an entertainment system, the apparatus comprising: a. a persistent data store having a plurality of storage locations to store a plurality of user preference data for a corresponding plurality of entertainment system users, wherein individual storage locations are dedicated to store user preference data for an individual system user (See Fig. 1 Auxiliary Memory 106 and Col. 3 lines 48-63, Col. 8 lines 3-16); b. a user detection system (See Fig. 1 I/O Devices 118, 120, 120, Fig. 4 User Interface 410 and Col. 4 lines 4-67, Col. 5 lines 1-4, Col. 7 lines 51-67, Col. 8 lines 1-29); c. and a profile processor, communicatively coupled to the persistent data store and the user detection system, the profile processor programmed to (See Fig. 1 CPU 102 Col. 3 lines 19-45): i. automatically detect which

users of the plurality of entertainment system users are currently within a predetermined viewing area (See Fig. 1 I/O Devices 118, 120, 120, Fig. 4 User Interface 410 and Col. 4 lines 4-67, Col. 5 lines 1-47, Col. 7 lines 51-67, Col. 8 lines 1-29 The processor automatically detects users after receiving inputs from I/O devices); ii. and automatically create a composite user profile, useful for generating a set of recommended entertainment options from a set of available entertainment options, the composite user profile being based on the profiles of each of the plurality of users currently within the predetermined viewing area (See Col. 5 lines 21-47).

***Claim Rejections - 35 USC § 103***

3. Claims 2, 6-8, 10, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebenow in view of Harada et al. (US 5,721,583).
4. Regarding claim 2, Liebenow teaches wherein the user detection system comprises a computer vision system (See Col. 4 lines 4-51), a microphone (See Col. 4 lines 4-51), a touch screen (See Col. 4 lines 4-51), and an input device capable of transmitting at least one unique input (See Col. 4 lines 4-51). Liebenow also teaches that an input device such as those listed above is used by the users for identification purposes (See Col. 4 lines 52-65). Liebenow differs from the claimed invention in that his user detection system does not necessarily comprise a voice recognition system, a fingerprint recognition system, or a handprint recognition system. However, Liebenow teaches all the appropriate input devices for a voice recognition system, a fingerprint recognition system, and a hand print recognition system. Systems that employ voice recognition and fingerprint recognition are well known in the art as taught by Harada

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(See Col. 25 lines 55-67 and Col. 26 lines 1-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modified Liebenow so that his hardware system included the necessary software to implement a voice recognition system and a fingerprint recognition system to reduce the possibility that unauthorized users accessed information (See Harada Col. 5 lines 33-38).

5. Regarding claim 6, Liebenow teaches an entertainment system, comprising: a. at least one entertainment system component providing programming available to at least one user, the programming being received via at least one input to the entertainment system component (See Col. 4 lines 4-51 TV tuner provides available programming); b. a persistent data store having a plurality of storage locations to store user preference data for a corresponding plurality of entertainment system users, wherein at least one unique storage location is dedicated to store the user preference data for a unique corresponding system user (See Fig. 1 Auxiliary Memory 106 and Col. 3 lines 48-63, Col. 8 lines 3-16); c. and a profile processor, operatively in communication with the at least one entertainment system component, the persistent data store, and a user detection system, the profile processor programmed to (See Fig. 1 CPU 102 Col. 3 lines 19-45): i. automatically detect which users of the plurality of entertainment system users are currently within a predefined viewing area (See Fig. 1 I/O Devices 118, 120, 120, Fig. 4 User Interface 410 and Col. 4 lines 4-67, Col. 5 lines 1-47, Col. 7 lines 51-67, Col. 8 lines 1-29 The processor automatically detects users after receiving inputs from I/O devices); ii. automatically create a composite user profile based on a profile for each of the plurality of users currently detected within the

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predefined viewing area (See Col. 5 lines 21-47); and iii. dynamically adjust operating parameters for the entertainment system in response to the composite user profile (See Col. 5 lines 21-47). Liebenow differs from the claimed invention in that his user detection system does not necessary comprise a voice recognition system, a fingerprint recognition system, or a handprint recognition system. However, Liebenow teaches all the appropriate input devices for a voice recognition system, a fingerprint recognition system, and a hand print recognition system. Systems that employ voice recognition and fingerprint recognition are well known in the art as taught by Harada (See Col. 25 lines 55-67 and Col. 26 lines 1-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modified Liebenow so that his hardware system included the necessary software to implement a voice recognition system and a fingerprint recognition system to reduce the possibility that unauthorized users accessed information (See Harada Col. 5 lines 33-38).

6. Regarding claim 7, Liebenow in view of Harada teaches a method for creating a composite user profile for a plurality of users, the method comprising: a. automatically detecting which of a plurality of users are currently within a predetermined viewing area (See Liebenow Col. 4 lines 4-67, Col. 5 lines 1-47, Col. 7 lines 51-67, Col. 8 lines 1-29 The processor automatically detects users after receiving inputs from I/O devices); b. determining an identity for each of the detected plurality of users (See Liebenow Col. 5 lines 5-47); c. for each identified user, i. comparing the user's identity against a first predetermined portion of user data stored in a persistent data store (See Liebenow Col. 5 lines 5-47); and ii. retrieving a second predetermined portion of user data from the

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persistent data store for each user with a user profile stored in the persistent data store (See Liebenow Col. 5 lines 5-47); and d. creating a composite user profile from each of the second predetermined portions of user data (See Liebenow Col. 5 lines 5-47).

7. Regarding claim **8**, Liebenow in view of Harada teaches the method further comprising creating a set of recommended entertainment options based on the composite user profile from a set of available entertainment options (See Liebenow Col. 6 lines 25-67 Col. 7 lines 1-50 The result of the combining the user settings is a set of recommended settings).

8. Regarding claim **10**, Liebenow in view of Harada teaches wherein a user profile may be generated by an individual who has authority to generate a user profile for users who are present but who have no profile (See Liebenow Col. 5 lines 5-20).

9. Regarding claim **24**, Liebenow teaches in an entertainment system including a program processor operatively connected to a persistent data store, a program output device, an audio input device, a user detection device, and a video input device, a method for automatically configuring the entertainment system for an plurality of identified system users, the method comprising: detecting which users from the plurality of identified system users are currently within a predetermined viewing area (See Col. 4 lines 4-67, Col. 5 lines 1-47, Col. 7 lines 51-67, Col. 8 lines 1-29); determining which of the detected users have user preference data stored in the persistent data store (See Col. 4 lines 4-67, Col. 5 lines 1-47, Col. 7 lines 51-67, Col. 8 lines 1-29); retrieving the user preference data corresponding to each of the detected users from the persistent data store for those detected users having profiles in the persistent data store (See Col.



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4 lines 4-67, Col. 5 lines 1-47, Col. 7 lines 51-67, Col. 8 lines 1-29); creating a composite user profile using the retrieved user preference data (See Col. 4 lines 4-67, Col. 5 lines 1-47, Col. 7 lines 51-67, Col. 8 lines 1-29); scanning programming information for available entertainment options which match the composite user profile within a predetermined range of matching values (See Col. 6 lines 25-67 Col. 7 lines 1-50); and adjusting the entertainment system in accordance with the composite user profile and available entertainment options (See Col. 7 lines 39-50). Liebenow differs from the claimed invention in that his user detection system does not necessary comprise a voice recognition system, a fingerprint recognition system, or a handprint recognition system. However, Liebenow teaches all the appropriate input devices for a voice recognition system, a fingerprint recognition system, and a hand print recognition system. Systems that employ voice recognition and fingerprint recognition are well known in the art as taught by Harada (See Col. 25 lines 55-67 and Col. 26 lines 1-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modified Liebenow so that his hardware system included the necessary software to implement a voice recognition system and a fingerprint recognition system to reduce the possibility that unauthorized users accessed information (See Harada Col. 5 lines 33-38).

10. Regarding claim **25**, Liebenow in view if Harada teaches a computer program embodied within a computer-readable medium created using the method of claim 7 (See Liebenow Col. 2 lines 3-6 and discussion of claim 7).

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11. Regarding claim **26**, Liebenow in view of Harada teaches a computer program embodied within a computer-readable medium created using the method of claim 24 (See Liebenow Col. 2 lines 3-6 and discussion of claim 24).

12. Claims **3** is rejected under 35 U.S.C. 103(a) as being unpatentable over Liebenow in view of Harada et al. and further in view of Turk et al (US 5,164,992).

13. Regarding claim **3**, Liebenow modified with Harada teaches wherein the user detection system comprises a computer vision system (See Col. 4 lines 4-51 A camera is a computer vision system). Liebenow also teaches that an input device in his system is used by the users for identification purposes (See Col. 4 lines 52-65). Liebenow fails to disclose wherein the computer vision system identifies faces in the detected imagery. However, systems wherein a computer vision system identifies faces in the detected imagery are well known in the art as taught by Turk (See Col. 1 lines 55-64). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Liebenow so that the computer vision system identified faces in the detected imagery as taught by Turk so that the user need not interact with the equipment to record his presence (See Turk Col. 1 lines 34-53).

14. Claims **4-5, 9, 11-21, 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebenow in view of Finseth (US 6,813,775).

15. Regarding claim **4**, Liebenow teaches wherein the users' favorite channels are stored in the user profile (See Col. 7 lines 44-50) and wherein profiles are retrieved from memory (See Col. 5 lines 21-26). In Liebenow's system user's favorite channels explicitly entered and are not necessarily determined by monitoring the users viewing

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history. Thus, Liebenow fails to disclose wherein the profile processor is further programmed to monitor interaction of users with the entertainment system, selectively store a predetermined portion of each interaction in a view history, and selectively retrieve interactions from the view history. However, systems where user preferences are determined by monitoring viewing history are well known in the art as taught by Finseth (See Col. 2 lines 3-11, Col. 10 lines 8-67, Col. 11 lines 1-20). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Liebenow so that his profile processor monitored the interactions of users with the entertainment system and stored them in a view history as taught by Finseth to provide users with a convenient way to affect the program guide content (See Finseth Col. 1 lines 42-54):

16. Regarding claim 5, Liebenow modified with Finseth teaches wherein the profile processor is further programmed to: a. create at least one value relating to the view history of a user within that user's profile (See Finseth Col. 2 lines 3-11, Col. 10 lines 8-67, Col. 11 lines 1-20 An amount of time is a value); and b. create a set of recommend viewing choices for the composite user profile based at least in part on each detected user's past viewing history for viewing choices similar to or the same as the viewing choices in those users' past viewing histories (See Finseth Col. 11 lines 21-42, Col. 13 lines 19-28).

17. Claims 9, 11-21, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liebenow in view Harada and further in view of Finseth (US 6,813,775).

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18. Regarding claim 9, Liebenow in view of Harada teaches the method further comprising: e. accumulating a user preference profiles for each detected user, the user preference profiles comprising positive entertainment options (See Liebenow Col. 6 lines 25-67 Positive entertainment options in the users profiles are values that are greater than a user specified minimum such as volume levels above a user specified minimum or a single user specified value of a setting); f. creating a composite user preference profile from the accumulated user preference profiles, the composite user preference profile comprising positive entertainment options (See Liebenow Col. 6 lines 25-67); g. adjusting the composite user profile using the positive entertainment options in the composite user preference profile wherein each positive entertainment option in the composite user profile reflects a sum of occurrences of that positive entertainment option in each of the individual user's profiles (See Liebenow Col. 7 lines 18-50); h. generating negative entertainment options for each positive entertainment option in the composite user profile (See Liebenow Col. 6 lines 25-67 This occurs when a setting that is acceptable for one user is not acceptable for all users) and j. generating a composite score for each positive entertainment option and negative entertainment option in the composite user profile (See Liebenow Col. 6 lines 25-67 Col. 7 lines 1-50 A setting range or a final setting value is a composite score). In Liebenow's system users can enter favorite channels explicitly as part of their profile (See Col. 7 lines 44-50). Liebenow in view of Harada fails to disclose wherein user preferences are determined by monitoring the users' viewing history for predetermined amounts of time. However, systems where user preferences are determined by monitoring viewing history are well

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known in the art as taught by Finseth (See Col. 2 lines 3-11, Col. 10 lines 8-67, Col. 11 lines 1-20). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Liebenow so that his profile processor monitored the interactions of users with the entertainment system and stored them in a view history as taught by Finseth to provide users with a convenient way to affect the program guide content (See Finseth Col. 1 lines 42-54).

19. Regarding claim 11, Liebenow in view of Harada teaches creating a composite user preference profile to reflect each user preference profile stored in the stored user data for each user identified (See Liebenow Abstract); generating a set of positive entertainment options from a set of available entertainment options for that available entertainment options that meet or exceed a predetermined threshold value of positive entertainment options in the composite user preference profile (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-17 Based on user profiles a range of values are determined as acceptable. The minimum value of this range is a threshold value for settings. Values of options above this threshold are determined as acceptable (positive entertainment options)); and generating a set of negative entertainment options by sampling the set of available entertainment options that do not meet the predetermined threshold value of positive entertainment options in the composite view history (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-17 Based on user profiles a range of values are determined as acceptable. The minimum value of this range is a threshold value for settings. Values of options below this threshold option are determined as unacceptable (negative entertainment options)). In Liebenow's system users can enter favorite

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channels explicitly as part of their profile (See Liebenow Col. 7 lines 44-50). Liebenow fails to disclose wherein user preferences are determined by monitoring the users viewing history for predetermined amounts of time. However, systems where user preferences are determined by monitoring viewing history are well known in the art as taught by Finseth (See Col. 2 lines 3-11, Col. 10 lines 8-67, Col. 11 lines 1-20). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Liebenow so that his profile processor monitored the interactions of users with the entertainment system and stored them in a view history as taught by Finseth to provide users with a convenient way to affect the program guide content (See Finseth Col. 1 lines 42-54).

20. Regarding claim **12**, Liebenow modified with Harada modified with Finseth teaches wherein step (g) further comprises using a uniform random distribution to create a set of negative options (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-17 An option such as volume control is uniformly distributed).

21. Regarding claim **13**, Liebenow modified with Harada modified with Finseth teaches the method further comprising: h. allowing a user to select an entertainment option from the set of positive entertainment options (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-17, Col. 8 lines 16-19 Users can control the settings within the negotiated range); and i. preventing selection of an available entertainment option for entertainment options that are members of the set of negative entertainment options (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-17, Col. 8 lines 16-19 Users can control the settings within the negotiated range).

22. Regarding claim **14**, Liebenow modified with Harada modified with Finseth teaches wherein step (i) further comprises restricting negative entertainment options to those that occur within a predetermined time frame (See Finseth Fig. 4 Col. 2 lines 3-11, Col. 10 lines 8-67, Col. 11 lines 1-20 Both positive and negative entertainment options (Television Programs) occur within a predetermined time frame).

23. Regarding claim **15**, Liebenow modified with Harada modified with Finseth teaches wherein step (f) further comprises using an adaptive sampling technique to select entertainment options from all available entertainment options such that the selected entertainment options match preferences in the composite user profile within a predetermined range (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-50 The system creates a list of channels from all available channels).

24. Regarding claim **16**, Liebenow modified with Harada modified with Finseth teaches the method further comprising: h. generating entertainment option recommendations based on available entertainment options and the set of positive entertainment options using implicit selection techniques, explicit selection techniques, feedback selection techniques, or a combination thereof (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-50).

25. Regarding claim **17**, Liebenow modified with Harada modified with Finseth teaches wherein the implicit selection techniques comprise capturing users' entertainment option selection patterns and generating entertainment option recommendations based on a composite of the users' entertainment option selection patterns (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-50).

26. Regarding claim **18**, Liebenow modified with Harada modified with Finseth teaches wherein the explicit selection techniques comprise having the users explicitly input each of the user's entertainment option preferences and generating entertainment option recommendations based on a composite of the users' explicit entertainment option preferences (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-50).

27. Regarding claim **19**, Liebenow modified with Harada modified with Finseth teaches the method further comprising: h. capturing users' entertainment option selection patterns (See Finseth Col. 10 lines 8-64); i. accepting at least one of the users' explicit input of the user's entertainment option preferences (See Liebenow Col. 5 lines 5-67, Col. 6 lines 1-67, Col. 7 lines 1-50 Users explicitly input preferences); and j. generating entertainment option recommendations based on a composite of the users' entertainment option selection patterns and on a composite of the users' explicit entertainment option preferences (See Liebenow Col. 5 lines 5-67, Col. 6 lines 1-67, Col. 7 lines 1-50 A weighted average intended to satisfy all users is a recommended option).

28. Regarding claim **20**, Liebenow modified with Harada modified with Finseth teaches wherein step (e) further comprises: i. generating scores for each of the detected users from each of the detected users' profile data (See Liebenow Col. 7 lines 18-50 The percentage value is the score); and ii. combining the detected users' profiles using the generated scores (See Liebenow Col. 7 lines 18-50 A weighted average is used).



29. Regarding claim **21**, Liebenow modified with Harada modified with Finseth teaches wherein each user's individual user profile may further comprise a weighting factor such that each detected user's preferences are weighted independently from other users detected in the viewing area when generating scores for the detected users from each of the detected users' profile data (See Liebenow Col. 7 lines 18-50).

30. Regarding claim **23**, Liebenow modified with Harada modified with Finseth teaches the method further comprising: rating available entertainment options for a predetermined time frame (See Finseth Fig. 4 Col. 2 lines 3-11, Col. 10 lines 8-67, Col. 11 lines 1-20 Entertainment options (Television Programs) occur within a predetermined time frame) against each of the previously created individual profiles of each user detected in the viewing area (See Liebenow Col. 6 lines 25-67 Col. 7 lines 1-50); presenting only entertainment options that meet or exceed a predetermined rating threshold in each of the previously created individual profiles of each user present in the viewing area (See Liebenow Col. 6 lines 25-67, Col. 7 lines 1-50).

31. Claim **22** is rejected under 35 U.S.C. 103(a) as being unpatentable over Liebenow in view of Harada in view of Finseth and further in view of Ismail (US 6,614,987).

32. Regarding claim **22**, The USPTO considers the applicant's "at least one of" language to be anticipated by any reference containing any of the subsequent corresponding elements. Liebenow modified with Harada modified with Finseth teaches wherein the weighting factor can vary according various types of data (See Liebenow Col. 7 lines 18-50) Liebenow modified with Harada modified with Finseth fails to

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disclose wherein the weighting factor can vary as a function of time of day or calendar time. However, varying weighting factors as a function of calendar time is well known in the art as taught by Ismail (See Col. 6 lines 35-51). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Liebenow so that the weight factors varied as a function of calendar time as taught by Ismail to have a system which automatically selected programs based on user preferences (See Col. 1 lines 44-51).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamieson W. Fish whose telephone number is 571-272-7307. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JF 11-03-2005

  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600